

**Before the State of South Carolina
Department of Insurance**

In the matter of:

Frank S. Fulmer
146 Dragstrip Road
Aiken, South Carolina 29803-8918.

File Number 2003-120236
Consent Order
Imposing Administrative Penalty

This matter comes before me pursuant to an agreement entered into between the State of South Carolina Department of Insurance and Frank S. Fulmer, a licensed South Carolina resident insurance producer.

Upon review of this matter, I hereby find as fact, that Frank Fulmer, while licensed to do business as a resident insurance agent within the State of South Carolina, failed to remit monies in concept of premiums he received from consumers to Life Insurance Company of Georgia. Mr. Fulmer acknowledges this and contends this failure resulted from inadvertence and oversight and not from any intent to avoid the requirements of the law. Nevertheless, these actions can ultimately lead to the revocation of his license to transact the business of insurance as a producer in South Carolina following a public hearing at the Administrative Law Judge Division, pursuant to S.C. Code Ann. & 38-43-130.

Prior to the initiation of any administrative proceedings by the Department against him, Frank S. Fulmer and the Department agreed to submit the entire matter to me, along with their specific recommendation, for my summary decision, rather than to proceed toward a formal public hearing. The consensual recommendation was that, in lieu of the Department seeking to revoke Mr. Fulmer's resident insurance agent's license, he would waive his right to a public hearing and immediately pay an administrative penalty in the total amount of \$1,500.00.

Section 38-45-140 of the South Carolina Code grants the Director of Insurance the power to revoke an insurance broker's license for violating any of South Carolina's Insurance Laws. Similarly, § 38-43-130 also provides the Director of Insurance with the authority to revoke a producer's license..."when it appears that a producer has violated this title or any regulation promulgated by the Department, or has willfully deceived or dealt unjustly with the citizens of this State." Subsection (c)(4) specifically defines "deceived or dealt unjustly with the citizens of this State"...as "improperly withholding, misappropriating, or converting any monies or properties received in the course of doing insurance business." Moreover, Regulation 69-34.1 (E)(m) makes the "failure to report within seven business days the full amount of any premium collected from an applicant an unfair business practice."

After a thorough review of the record, and pursuant to my findings of fact, I hereby conclude as a matter of law, that Frank S. Fulmer has violated S.C. Code Ann. § 38-43-130(c)(4) (Supp. 2002). As a result, I can now take administrative disciplinary action against his insurance producer's license. However, under the discretionary authority provided to me within S.C. Code Ann. § 38-43-130 (Supp. 2002), and after carefully considering the recommendation of the parties, I hereby impose against Mr. Fulmer an administrative fine in the total amount of \$1,500.00 and place him under a one year Probationary status. Mr. Fulmer must pay that fine within ten days of the date of my signature upon this consent order. If he does not timely pay that total fine amount, his resident insurance agent license will be immediately revoked without any further disciplinary proceedings.

The parties have reached this agreement in consideration that the monies have been refunded, and of Frank Fulmer's assurance that in the future he will comply with the State's insurance laws. The parties expressly agree and understand Mr. Fulmer's payment of the agreed-upon penalty constitutes full accord and satisfaction of this matter.

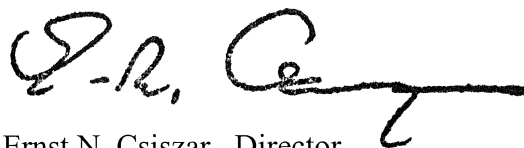
By his signature upon this consent order, Frank S. Fulmer acknowledges that he understands that this administrative disciplinary order is a public record subject to the disclosure requirements of the State of South Carolina's *Freedom of Information Act*, S.C. Code Ann. §§ 30-4-10, *et seq.* (1991 and Supp. 2002).

Nothing contained within this administrative disciplinary order should be construed to limit or to deprive any person of any private right of action under the law. Nothing contained within this administrative disciplinary order should be construed to limit, in any manner, the criminal jurisdiction of any law enforcement or judicial officer. Nothing contained within this administrative disciplinary order should be construed to limit the statutory duty of the Director of Insurance, exercised either directly or through the Department of Insurance, to "report to the Attorney General or other appropriate law enforcement officials criminal violations of the law relative to the business of insurance or the provisions of this title which he considers necessary to report." S.C. Code Ann. § 38-3-110 (4) (Supp. 2002).

It is, therefore, ordered that Frank S. Fulmer shall, within ten days of the date of my signature on this consent order, pay through the Department an administrative fine in the total amount of \$1,500.00.

It is further ordered that a copy of this consent order be immediately transmitted to the National Association of Insurance Commissioners for distribution to its member states and a copy be placed in Mr. Frank S. Fulmer's licensing file.

This order becomes effective as of the date of my signature below.



Ernst N. Csiszar, Director

February 17, 2004

Columbia, South Carolina

I CONSENT:



Frank S. Fulmer
146 Dragstrip Road
Aiken, South Carolina 29803-8918.

Dated this 17 day of February, 2004